

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN ASSEMBLY JUNE 13, 2006

**SENATE BILL**

**No. 1400**

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**Introduced by Senator Kehoe**

February 22, 2006

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An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1400, as amended, Kehoe. Property taxation: military housing.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing property tax law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if the housing units and the private contractor constructing the housing meet specified criteria. Among this criteria is a requirement that the military family housing constructed by the private contractor is situated on a military facility under military control.

This bill would define military facility under military control as a military base that restricts *public* access ~~onto~~ to the military base ~~by the general public~~.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 107.4 of the Revenue and Taxation  
2     Code is amended to read:  
3     107.4. For purposes of paragraph (1) of subdivision (a) of  
4     Section 107, there is no independent possession or use of land or  
5     improvements if that possession or use is pursuant to a contract  
6     that includes, but is not limited to, a long-term lease, for the  
7     private construction, renovation, rehabilitation, replacement,  
8     management, or maintenance of housing for active duty military  
9     personnel and their dependents, if all of the following criteria are  
10    met:  
11    (a) The military family housing constructed and managed by  
12    private contractor is situated on a military facility under military  
13    control, and the construction of that housing is performed under  
14    military guidelines in the same manner as construction that is  
15    performed by the military.  
16    (b) All services normally provided by a municipality are  
17    required to be purchased from the military facility or a provider  
18    designated by the military.  
19    (c) The private contractor is not given the right and ability to  
20    exercise any significant authority and control over the  
21    management or operation of the military family housing, separate  
22    and apart from the rules and regulations of the military.  
23    (d) The number of units, the number of bedrooms per unit, and  
24    the unit mix are set by the military, and may not be changed by  
25    the contractor without prior approval by the military.  
26    (e) Tenants are designated by a military housing agency.  
27    (f) Financing for the project is subject to the approval of the  
28    military in its sole discretion.  
29    (g) Rents charged to military personnel or their dependents are  
30    set by the military.  
31    (h) The military controls the distribution of revenues from the  
32    project to the private contractor, and the private contractor is  
33    allowed only a predetermined profit or fee for constructing the  
34    military family housing.

1 (i) Evictions from the housing units are subject to the military  
2 justice system.

3 (j) The military prescribes rules and regulations governing the  
4 use and occupancy of the property.

5 (k) The military has the authority to remove or bar persons  
6 from the property.

7 (l) The military may impose access restrictions on the  
8 contractor and its tenants.

9 (m) Any reduction or, if that amount is unknown, the private  
10 contractor's reasonable estimate of savings, in property taxes on  
11 leased property used for military housing under the Military  
12 Housing Privatization Initiative (10 U.S.C. Sec. 2871 and  
13 following) shall inure solely to the benefit of the residents of the  
14 military housing through improvements, such as a child care  
15 center provided by the private contractor.

16 (n) The military family housing is constructed, renovated,  
17 rehabilitated, remodeled, replaced, or managed under the  
18 Military Housing Privatization Initiative, or any successor to that  
19 law.

20 (o) For purposes of this section, "military facility under  
21 military control" means a military base that restricts access onto  
22 ~~the military base by the general public.~~ *public access to the*  
23 *military base.*